

# Case Law Today - July 2011

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Multimedia I.D. Number: **NA**

CPT Hours: **NA**

DVD Shipping Date: 07/15/11

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### "Ambiguity About a Lawyer"

*with Devallis Rutledge, Special Counsel, Los Angeles CO District Attorney's Office*  
In *Sessions v. Runnels* the Ninth Circuit found reasonable a California court's ruling that a murder suspect did not unambiguously invoke counsel by asking, "There wouldn't be any possible way that I could have a lawyer present while we do this?" and adding that his father had "asked me to ask you guys to get me a lawyer." After officers gave a warning and carefully explained the suspect's right, his reply, "Let's talk," was a valid waiver and his statement was admissible at trial. *Case cited: Sessions v. Runnels* (9 Cir. 2011) WL 2163970. (6:09)

### Seatbelt Law Requires Wearing Lapbelt AND Shoulder Harness

*with Jeff Rubin, Deputy District Attorney, Alameda County, CA*  
In order to be "properly restrained by a safety belt" within the meaning of section 27315(d)(1), a motorist or passenger in a vehicle manufactured after 1996 must wear the entire shoulder harness and lap belt combination restraint system while the vehicle is being operated. *Case/Statute cited: People v. Overland* (2011) 193 Cal.App.4th Supp. 9; Veh. Code § 27315(d)(1). (3:15)

### Police-Created Exigency

*with Daniel McNeerney, Superior Court Judge, Orange County, CA*  
The U.S. Supreme Court in *Kentucky v. King* holds that police are not prohibited from employing the "exigent circumstances" rule to make a warrantless entry to prevent the destruction of evidence, even where police may have created the exigency by appearing and announcing their presence. *Case cited: Kentucky v. King* (2011) DAR 6953. (6:48)

### Expectation of Privacy in Friend's Home Unreasonable

*with Jeff Rubin, Deputy District Attorney, Alameda County, CA*  
A suspect who enters another's home solely for purposes of evading the police has no reasonable expectation of privacy in the home even though he is a frequent visitor to the home and is allowed to enter without knocking. There is a heightened expectation of privacy in a locked bathroom but not if it is entered for a reason other than for its intended purpose. *Case cited: People v. Magee* (2011) 194 Cal.App.4th 178. (9:49)

### Probable Cause to Search a Car

*with William W. Bedsworth, Appellate Court Justice, State of California*  
In *United States v. Ewing*, police stopped a car for a registration violation. They asked if any of the occupants were on probation or parole and one— who appeared nervous and showed signs of possibly being under the influence— said he was. Then the officer saw money protruding from the space between the passenger side window and the door weather-stripping. He asked whose money it was and all occupants of the car denied it was theirs. None seemed to know how it got there. As Justice Bedsworth explains, this was probable cause to search the car and nothing else was necessary to unfold the bills and see that they were counterfeit. *Case cited: United States v. Ewing* (2011 9th Circuit) \_\_\_\_ F 4745. (6:15)

### Pocket Bikes Are a "Motor Vehicle" Under Vehicle Code

*with Jeff Rubin, Deputy District Attorney, Alameda County, CA*  
A "pocket bike" is a "motor vehicle" under the Vehicle Code and so while the pocket bike may not be "highway legal," the driver of a pocket bike may be found to have committed violations of various Vehicle Code sections, including evading the police in violation of Vehicle Code Section 2800.2. *Case/Statutes cited: People v. Varela* (2011) 193 Cal.App.4th 1216; Veh. Code §§ 414, 473, 670, and 2800.2. (3:13)

